

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**SUMMIT FINANCIAL RESOURCES
L.P.,**

Plaintiff,

v.

**BIG DOG ENTERPRISES LOGISTICS,
LLC, d/b/a FREIGHT HAULING
LOGISTICS, THE HURSEY GROUP,
LLC, AGED ASSETS, LLC,
COMMERCIAL PROPERTY
MANAGEMENT, LLC, HURSEY
TECHNOLOGY, LLC, DAVID
HURSEY, SUSAN HURSEY, and
PEERLESS-PREMIER APPLIANCE
CO.,**

Defendants.

**PEERLESS PREMIER APPLIANCE
CO.,**

Counterclaim/Interpleader Plaintiff,

v.

**SUMMIT FINANCIAL RESOURCES
L.P.,**

**Counterclaim/Interpleader
Defendant.**

**PEERLESS PREMIER APPLIANCE
CO.,**

Cross-claim/Interpleader Plaintiff,

v.

**BIG DOG ENTERPRISES LOGISTICS,
LLC, d/b/a FREIGHT HAULING
LOGISTICS, DAVID HURSEY, THE
HURSEY GROUP, LLC,**

Case No. 07-CV-0187-MJR-CJP

CONSOLIDATED WITH

Case No. 07-CV-0361-MJR-CJP

And)
)
CSX INTERMODAL, INC., ESTES)
EXPRESS LINES, OVERNIGHT)
TRANSPORT-UPS FREIGHT,)
LANDSTAR RANGER, and)
SCHNEIDER NATIONAL CARRIERS,)
)
Cross-Claim/Interpleader Defendants.

ORDER

REAGAN, District Judge:

Status and settlement conferences are scheduled as to all claims related to the interpleader action for Friday, June 26, 2009. In light of the recent motion to dismiss interpleader claims (Doc. 376) and the notice of settlement (Doc. 377), the Court hereby **CLARIFIES** which parties must attend the status and settlement conferences set for Friday, June 26, 2009, given its understanding of the pending claims relating to the interpleader action.

In addition to the parties' actions against the stake, the Court's review of the docket sheet shows that various claims remain pending against Peerless and Big Dog for the amounts owed for services performed, whether included in the interpleader stake or not.¹ This includes the various carriers' counterclaims to collect deficiencies not recovered from the stake. The remaining counterclaims appear to be as follows:²

- CSX has counterclaims pending against Peerless and Big Dog (Docs. 64 & 127).
- Overnite has counterclaims pending against Peerless and Big Dog (*see* Doc. 239).

¹ Neither Big Dog nor Peerless were parties to the interpleader settlement agreement. The settlement only legally resolves the claims between Summit and the Carriers.

² Additionally, Big Dog initially raised a crossclaim against Peerless in the main action (Docs. 26 & 278) but appears to have abandoned it by failing to re-plead the cross-claim in its most recent amended answer (Doc. 332). Big Dog's answer to Peerless's interpleader action does not include any cross-claims or counterclaims against Peerless (Doc. 97).

- Estes has a claim pending against Peerless only (which came into the case when 07-CV-0361-MJR was consolidated with 07-CV-0187-MJR) (Doc. 141).
- Landstar has counterclaims pending against Peerless and Big Dog (Doc. 78).³
- Schneider has counterclaims pending against Big Dog (Docs. 91 & 146), and though summary judgment was granted in its favor as to its counterclaims against Peerless (Doc. 359), there are still outstanding questions regarding the amount of damages.
- Summit's claims against Peerless also remain pending, though the resolution of the interpleader action likely also resolves these claims.

The Court understands that Summit, Landstar, CSX, and Schneider wish to be excused from tomorrow's conferences, but the Court declines to do so in light of the pendency of the above-described claims.

Thus, at this time, the following parties shall attend the status conference: **Summit, Peerless, Landstar, CSX, Overnite, Estes, and Schneider**. However, the Court notes that if any of these parties no longer wish to pursue the cross-claims and counterclaims described above, or if these claims have been settled, any party may file a motion to voluntarily dismiss these claims, in which the case the Court will excuse that party from the conferences. If such a motion is filed, the party shall contact Judge Reagan's law clerk, David Pfeffer, 618-482-9424, no later than 4:30 p.m. CST in order to confirm that they are in fact excused from attending the June 26th settings.

Obviously, unless all of these claims are voluntarily dismissed, Peerless must attend.

³ Landstar also had counterclaims pending against Summit, however there appears to be no question that those claims have been resolved by the parties' settlement agreement.

Unless explicitly excused by the Court, a party's failure to attend the June 26, 2009 settings may result in dismissal of their claims and/or monetary sanctions.

IT IS SO ORDERED.

DATED this 25th day of June 2009.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge